

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

David Marsh,)	
)	
Plaintiff,)	
)	
v.)	No. 08 C 1204
)	
United Collection Bureau, Inc.,)	Judge Zagel
)	
Defendant.)	

MOTION FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT

Plaintiff, David Marsh, requests pursuant to Rule 55 of the Federal Rules of Civil Procedure that the Court enter defendant United Collection Bureau, Inc.'s default and grant default judgment on liability against Defendant and in favor of Plaintiff, and in support states:

1. Plaintiff filed this case on February 28, 2008. On the same date, Plaintiff sent a Notice of Lawsuit and Request for Waiver of Service to Defendant in care of Defendant's registered agent for service of process. See Exhibit A. Defendant did not respond.

2. On April 22, 2008, service was obtained on Defendant in accordance with Rule 4(h) of the Federal Rules of Civil Procedure by having a process server hand-deliver a copy of the Complaint and Summons to Defendant's authorized agent for service of process, CT Corporation System. See Exhibits B and C. Defendant's answer or other responsive pleading was due on May 12, 2008. As of the filing of this motion, no pleading or appearance has been filed on behalf of Defendant.

3. On May 22, 2008, Plaintiff's counsel sent a letter to an attorney it knows to have represented Defendant previously in this District in cases similar to Plaintiff's. See Exhibit D. This letter informed the attorney of the existence of the lawsuit and asked the attorney to inform

Plaintiff's counsel whether he intended to represent Defendant in this matter. The attorney did not respond.

4. Because Defendant has been served with this lawsuit but has failed to respond, Plaintiff requests the Court enter Defendant's default pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

5. Plaintiff also requests the Court grant default judgment on liability against Defendant pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, allow Plaintiff 28 days to file affidavits in support of damages (including attorneys' fees and costs), and set this matter for a hearing on damages. Defendant is a corporation, not a minor or incompetent person.

WHEREFORE Plaintiff, David Marsh, requests pursuant to Rule 55 of the Federal Rules of Civil Procedure that the Court:

- a. Enter Defendant's default;
- b. Grant default judgment on liability against Defendant;
- c. Allow Plaintiff 28 days to file affidavits in support of damages;
- d. Set this matter for a hearing on damages; and
- e. Grant Plaintiff any other relief the Court deems just.

Respectfully submitted,

s/ Katherine A. Hathaway
One of Plaintiff's Attorneys

Dated: June 4, 2008

James Shedden
Katherine A. Hathaway (khathaway@lawsds.com; ARDC# 6283052)
Schad, Diamond & Shedden, PC
332 S. Michigan Avenue, Suite 1000
Chicago, Illinois 60604
(312) 939-6280

Exhibit List

A – Notice of Lawsuit and Request for Waiver of Service of Summons

B – Summons returned executed

C – Domestic Agent Subsequent Appointment filed by Defendant with the State of Ohio

D – May 22, 2008 letter from Plaintiff's counsel to Defendant's prior counsel

Exhibit A

AO 398 (Rev. 05/00)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

NOTICE OF LAWSUIT AND REQUEST FOR
WAIVER OF SERVICE OF SUMMONS

TO: (A) John Terry

as (B) General Counsel/VP of (C) United Collection Bureau, Inc.

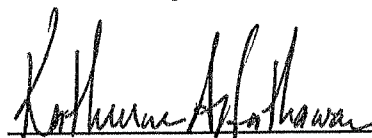
A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the Northern District of Illinois and has been assigned docket number (D) 08 C 1204.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within (E) 30 days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this 28th day of
February, 2008.
(Month) (Year)



Signature of Plaintiff's Attorney
or Unrepresented Plaintiff

A—Name of individual defendant (or name of officer or agent of corporate defendant)

B—Title, or other relationship of individual to corporate defendant

C—Name of corporate defendant, if any

D—Docket number of action

E—Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver

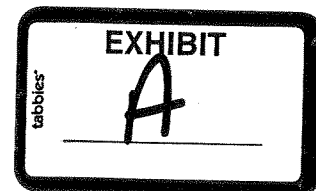


Exhibit B

AO 440 (Rev. 05/00) Summons in a Civil Action

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

SUMMONS IN A CIVIL CASE

David Marsh

CASE NUMBER: 08 C 1204

V.

ASSIGNED JUDGE: Zagel

United Collection Bureau, Inc.

DESIGNATED
MAGISTRATE JUDGE: Valdez

TO: (Name and address of Defendant)

United Collection Bureau, Inc.
c/o Its Registered Agent
CT Corporation System
1300 E. Ninth Street
Cleveland, OH 44114

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Katherine A. Hathaway
Schad, Diamond & Shedden, PC
332 S. Michigan Ave., Suite 1000
Chicago, IL 60604
(312) 939-6280

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

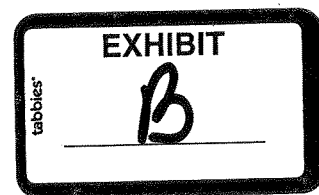
MICHAEL W. DOBBINS, CLERK

DAVID JOZWIAK

(By) DEPUTY CLERK

APR 16 2008

DATE



AO 440 (Rev. 05/00) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE April 22, 2008	
NAME OF SERVER (PRINT) Brittany Stafford	TITLE Special Process Server	
<i>Check one box below to indicate appropriate method of service</i>		
<p><input type="checkbox"/> G Served personally upon the defendant. Place where served: _____</p> <p>_____</p> <p><input type="checkbox"/> G Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.</p> <p>Name of person with whom the summons and complaint were left: _____</p> <p><input type="checkbox"/> G Returned unexecuted: _____</p> <p>_____</p> <p><input checked="" type="checkbox"/> G Other (specify): <u>Corporate Service: By serving copies at the office of</u></p> <p><u>the entity being served to the agent authorized to accept.</u></p> <p><u>Name: Ildiko Sarai. Description: White female, age 28,</u></p> <p><u>5'5", 160 lbs, black hair.</u></p>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES \$45.00	TOTAL \$45.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on <u>4/23/2008</u> <u>Brittany Stafford</u></p> <p style="margin-left: 150px;">Date</p> <p style="margin-left: 150px;">Signature of Server</p> <p style="margin-left: 150px;">Brittany Stafford</p> <p style="margin-left: 150px;">PO Box 93447</p> <p style="margin-left: 150px;">Cleveland OH 44101</p> <p style="margin-left: 150px;">888-212-5614</p> <p style="margin-left: 150px;">Address of Server</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

Exhibit C

Doc ID -->

200717201262



DATE:	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
06/21/2007	200717201262	DOMESTIC AGENT SUBSEQUENT APPOINTMENT (AGS)	25.00	.00	.00	.00	.00

Receipt

This is not a bill. Please do not remit payment.

CT CORPORATION SYSTEM
ATTN: TIMOTHY ROBERSON
17 S. HIGH ST., SUITE 1100
COLUMBUS, OH 43215

STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Jennifer Brunner**280543**

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

UNITED COLLECTION BUREAU, INC.

and, that said business records show the filing and recording of:

Document(s)

DOMESTIC AGENT SUBSEQUENT APPOINTMENT

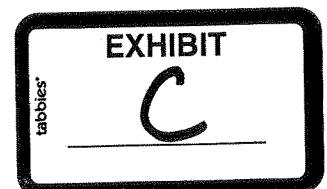
Document No(s):

200717201262

United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of
the Secretary of State at Columbus,
Ohio this 20th day of June, A.D.
2007.

Ohio Secretary of State



Doc ID -->

200717201262

Prescribed by **J. Kenneth Blackwell**

Ohio Secretary of State

Central Ohio: (614) 466-3910

Toll Free: 1-877-SOS-FILE (1-877-767-3453)

www.state.oh.us/sos

e-mail: busserv@sos.state.oh.us

Expedite this Form: (Select One)

☐ Yes PO Box 1390
Columbus, OH 43216
*** Requires an additional fee of \$100 ***

☒ No PO Box 788
Columbus, OH 43216

STATUTORY AGENT UPDATE

(For Domestic or Foreign, Profit or Non-Profit)

Filing Fee \$25.00

THE UNDERSIGNED DESIRING TO FILE A:

(CHECK ONLY ONE (1) BOX)

(1) Subsequent Appointment of Agent <input checked="" type="checkbox"/> Corp <input type="checkbox"/> LP (165-AGS) <input type="checkbox"/> LLC (171-LSA)	(2) Change of Address of an Agent <input type="checkbox"/> Corp <input type="checkbox"/> LP (145-AGA) <input type="checkbox"/> LLC (144-LAD)	(3) Resignation of Agent <input type="checkbox"/> Corp <input type="checkbox"/> LP (155-AGR) <input type="checkbox"/> LLC (153-LAG)
---	--	---

Complete ALL of the general information in this section for the box checked above.

Name of Entity	United Collection Bureau, Inc.
Charter or Registration No.	280543
Name of Current Agent	Marc Gertzner

Complete the information in this section if box (1) is checked.

Name and Address of New Agent	C T Corporation System (Name) 1300 East 9th Street (Street)
NOTE: P.O. Box Addresses are NOT acceptable.	
Cleveland (City)	Cuyahoga (County)
Ohio (State)	44114 (Zip Code)

ACCEPTANCE OF APPOINTMENT

The Undersigned, C T Corporation System, named herein as
the Statutory agent for, United Collection Bureau, Inc., hereby acknowledges and
accepts the appointment of statutory agent for said entity.

Signature:

[Signature]
(Statutory Agent)
Gil S. Apelis, Assistant Secretary

* If the entity listed is a foreign corporation, the agent does not have to sign the **Acceptance of Appointment**

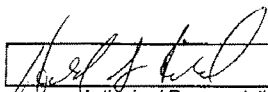
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200717201262

Complete the information in this section if box (2) is checked.		
Old Address of Agent	_____ (Street) NOTE: P.O. Box Addresses are NOT acceptable.	
	_____ (City)	_____ Ohio (State) _____ (Zip Code)
New Address of Agent	_____ (Street) NOTE: P.O. Box Addresses are NOT acceptable.	
	_____ (City)	_____ Ohio (State) _____ (Zip Code)

Complete the information in this section if box (3) is checked.		
Is this agent resigning?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Current or last known address of the entity's principal office where a copy of this Resignation of Agent was sent as of the date of filing or prior to the date filed	_____ (Street) NOTE: P.O. Box Addresses are NOT acceptable.	
	_____ (City)	_____ (State) _____ (Zip Code)

REQUIRED
Must be authenticated (signed) by an
authorized representative
(See Instructions)



Authorized Representative

6-8-07

Date

Exhibit D

SCHAD, DIAMOND & SHEDDEN, P.C.

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

332 SOUTH MICHIGAN AVENUE, SUITE 1000

CHICAGO, ILLINOIS 60604-4398

312 939-6280

E-MAIL: khathaway@lawsds.com

FACSIMILE 312 939-4661

Writer's Direct Dial: (312) 554-8404

May 22, 2008

*Via U.S. Mail and e-mail
to: [bgentry@sdtlawyers.com](mailto:bgency@sdtlawyers.com)*

Boyd Gentry
Surdyk, Dowd & Turner, Co., L.P.A.
Kettering Tower
40 North Main Street, Suite 1610
Dayton, OH 45423

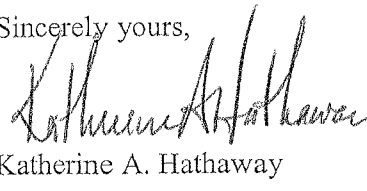
Re: *Marsh v. United Collection Bureau, Inc.*, 08 C 1204 (N.D.Ill.)

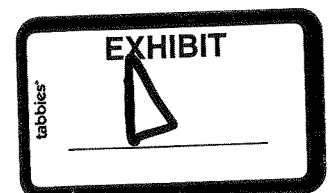
Dear Mr. Gentry:

It is our understanding that you have represented the defendant in the above case, United Collections Bureau, in cases pending here in Illinois. We filed the above case against United Collections Bureau on February 28, 2008 in the U.S. District Court for the Northern District of Illinois alleging violations of the FDCPA. United Collections Bureau did not respond to our request for waiver of service, and so we had them formally served on April 22, 2008. United Collections Bureau was due to answer or otherwise plead by May 12, 2008, which they failed to do. They now are in default.

As you have represented them in the past, we are writing to inquire as to whether you intend to represent them in this lawsuit. Please let me know by May 28, 2008 so that we know whether to move to default the defendant.

Sincerely yours,


Katherine A. Hathaway



CERTIFICATE OF SERVICE

I, Katherine A. Hathaway, an attorney, certify that on June 4, 2008, I electronically filed the attached **Motion for Entry of Default and Default Judgment** with the Clerk of the U.S. District Court for the Northern District of Illinois, Eastern Division, and that service of this document upon the following individuals was accomplished by placing a copy in the U.S. Mail, properly-addressed with first-class postage prepaid, at 332 S. Michigan Avenue, Chicago, Illinois, 60604, before 5:00 p.m.:

John Terry
United Collection Bureau, Inc.
c/o Its Registered Agent
CT Corporation System
1300 E. Ninth Street
Cleveland, OH 44114

John Terry
Vice-President/General Counsel
United Collection Bureau, Inc.
5620 Southwyck Blvd, Ste. 206
Toledo, OH 43614

s/ Katherine A. Hathaway